IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA HUNTINGTON DIVISION

WEST VIRGINIA HIGHLANDS CONSERVANCY, and THE SIERRA CLUB,)))
Plaintiffs,	
v.	Case No. 3:21-cv-00301
GLENDA OWENS, Acting Director, Office of Surface Mining Reclamation and Enforcement,)))
Defendant.))

STIPULATION OF THE PARTIES TO EXTEND ANSWER DEADLINE TO ACCOMMODATE NEGOTIATION OF SETTLEMENT

Pursuant to Local Rule 12.1 the Parties hereby Stipulate that the Answer Date shall be extended until October 15, 2021, to allow time for negotiation of a settlement of the remaining issue in this action. As grounds for this extension, the Parties state as follows:

- 1. Plaintiffs filed this action pursuant to the citizen suit provision of the Surface Mining Control and Reclamation Act (SMCRA) alleging that the Defendant had violated a mandatory duty under 30 CFR § 732.17(c). *See* ECF Doc. 1, Compl. at ¶¶ 44–48.
- 2. Pursuant to 30 CFR § 732.17(c), within 30 days after receiving notification of "events or proposed changes that may require a State [SMCRA] program amendment," the Director of the Office of Surface Mining Reclamation and Enforcement (OSMRE) "shall determine whether a State program amendment is required and notify the State regulatory authority of the decision."

- 3. In their Complaint, Plaintiffs alleged that the Defendant had violated its duty by failing to make a determination within 30 days after it received a December 30, 2020, notification from the West Virginia Department of Environmental Protection (WVDEP) of significant events that affect the West Virginia program. Compl. at ¶¶ 24, 46-47.
- 4. On August 23, 2021, the Director of OSMRE issued a letter to the Secretary of the WVDEP. *See* ECF Doc. No. 8-1.
- 5. As a result of the August 23, 2021 letter, Plaintiffs have initially determined that Defendant has resolved the merits of the issues raised by the Complaint. The Parties will use the time afforded by the extension to formalize this initial evaluation, negotiate the resolution of any additional matters, and endeavor to present a complete settlement to the Court.

Respectfully Submitted,

Date: 9/20/2021 /s/ J. Michael Becher

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Date: 9/20/2021 TODD KIM

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Counsel for Defendant

CERTIFICATE OF SERVICE

I, J. Michael Becher, hereby certify that on September 20, 2021 I filed the foregoing document through the Court's CM/ECF system, which will provide notification and service to the following:

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/s/ J. Michael Becher J. Michael Becher